

PLANNING COMMISSION REVIEW

1. July 23, 2003 Planning Commission Staff Report
2. June 25, 2003 Planning Commission Staff Report

Staff Report

City of Loma Linda

From the Department of Community Development

CITY OF LOMA LINDA
PLANNING COMMISSION

PLANNING COMMISSION MEETING OF JULY 23, 2003

APPROVED DENIED
CONTINUED

TO: PLANNING COMMISSION
FROM: DEBORAH WOLDRUFF, AICP, DIRECTOR,
COMMUNITY DEVELOPMENT DEPARTMENT

TO: _____
AT THE MEETING OF:
July 23, 2003
BY: *Josefine Larso*
PLANNING COMMISSION SECRETARY

SUBJECT: GENERAL PLAN AMENDMENT (GPA) NO. 03-01, ZONE CHANGE (ZC) NO. 03-01 PARCEL MAP (PM) NO. 03-01-TPM 16120, PRECISE PLAN OF DESIGN (PPD) No. 03-01 AND DEVELOPMENT AGREEMENT - A REQUEST TO SUBDIVIDE 23 ACRES INTO TWO LOTS AND CONSTRUCT A 296 UNIT APARTMENT COMPLEX ON THE LARGER OF THE TWO LOTS. THE SECOND LOT IS PLANNED FOR FUTURE COMMERCIAL DEVELOPMENT AND IS NOT PART OF THIS PROJECT. THE SUBJECT SITE IS LOCATED ON THE SOUTHEAST CORNER OF CALIFORNIA STREET AND ORANGE AVENUE EXTENDING DIAGONALLY TO THE NORTHWEST CORNER OF NEW JERSEY STREET AND BARTON ROAD IN THE GENERAL COMMERCIAL (C-2) ZONE.

SUMMARY

The applicant proposes a parcel map to subdivide 23 acres into two lots. The property is designated as Commercial-Neighborhood Specialized Community on the General Plan Land Use Map and is zoned General Commercial (C-2). The project includes a General Plan Amendment to Mixed-Use and a Zone Change to Planned Community (PC).

The Precise Plan of Design application includes a 296-unit multi-family residential apartment complex with a recreation center and pool on a 17.5-acre lot. The project also includes the removal and relocation of a single-family dwelling and transplantation of the adjacent palm trees. The residence and the trees will be relocated to a site within the surrounding Mission Road Historic District. The project requires approval of a Certificate of Appropriateness from the City Council with recommendation from the Historic Commission.

The project is located in an Inland Valley Development Agency (IVDA) Project Area and subject to meeting the affordable housing requirements of the Agency. To meet this requirement, the applicant and the City of Loma Linda, acting on behalf of the IVDA, will enter into a Development Agreement to assist in the production of future affordable housing needs throughout the City.

The remaining 5.5-acre lot that fronts on Barton Road would be developed at a later date through a separate Precise Plan of Design.

RECOMMENDATION

Staff recommends that the Planning Commission recommend the following actions to the City Council:

1. Adopt the Mitigated Negative Declaration (Attachment A);
2. Approve the Development Agreement (Attachment B);
3. Approve and adopt General Plan Amendment No. 03-01 (Attachment C) and Zone Change No. 03-01, based on the Findings; and,
4. Approve Tentative Parcel Map No. 03-01 (TPM 16120) (Attachment D) and Precise Plan of Design No. 03-01 based on the Findings, and subject to the attached Conditions of Approval (Attachment E).

PERTINENT DATA

Applicant:	AGS The Spanos Corporation
General Plan:	Commercial – Neighborhood Specialized Community (Draft General Plan: Mixed Use)
Zoning:	General Business (C-2)
Site:	The project is located at the southeast corner of Orange Avenue and California Street extending diagonally to the northwest corner of Barton Road and New Jersey Street. (APN Nos. 0292-161-01, 04, and 05)
Topography:	Relatively flat
Vegetation:	Patchy scrub and native grasses on the vacant portions of the site; palm trees in vicinity of existing residence (as noted)
Structures:	The existing, pre-1900's single-family dwelling at 26565 Orange Avenue (proposed to be removed and relocated off site)

EXISTING SETTING

The project site is located on a predominantly vacant site. The only structure on the site is the single-family residence at 26565 Orange Street, which is proposed to be removed and relocated off site. The site was once used for agricultural purposes for citrus and vineyards and the site is traversed with existing irrigation lines that relate to its historic use. The site is predominantly covered with natural brush and grass and located to the

north and east of an abandoned packinghouse and fuel tanks for the smudge pots that were used in the nearby citrus groves. The packinghouse site is not part of this project area. The properties to the south and to the east are vacant parcels. The property to the north is a church site and agricultural land. The area to the west is agricultural land and single family residences within the proposed Orchard Park specific plan area, which includes commercial, office, single-family dwellings, multifamily dwellings within a planned community.

BACKGROUND

The Planning Commission reviewed this project at their meeting on June 25, 2003 and identified several concerns about the project. It was determined that a sub-committee of the Planning Commission could work with the applicant to address these concerns and modify the project accordingly. Chair Roberts and Commissioner Essex were appointed to the sub-committee. Staff informed the Commission that the project description recently had been revised to eliminate the 5.5-acre commercial lot. (This issue is addressed and described further on in the Public Comments Section.) The project was continued from the June 25, 2003 Planning Commission meeting so that subcommittee could begin work with the applicant, and the draft Mitigated Negative Declaration could be revised, noticed, and redistributed.

On July 7, 2003, the subcommittee and staff met with the applicant who had made several modifications to the plans in an effort to address the Commission's concerns

The project was presented to the Historic Commission at the March 3 and April 7, 2003 meetings to consider the issuance of a Certificate of Appropriateness for the project to relocate the pre 1900's home on Orange Avenue and the proximity of the project to the Zanja canal. These meetings were public hearings, which complied with the requirements of the Loma Linda Municipal Code (LLMC) Section pertaining to Historic Preservation. The applicant worked with an appointed subcommittee of the Historic Commission to address concerns related to the preservation of the house and the Zanja canal. Originally the applicant requested to demolish the house at 26565 Orange Avenue. After working with the subcommittee the applicant agreed to relocate the house to a location within the proposed Historic District that is owned by the City of Loma Linda. At the April 7, 2003 meeting, the Historic Commission approved the Certificate of Appropriateness to relocate the house at 26565 Orange Avenue and the palm trees that are adjacent to the house. The archeologist for the project could not determine the exact location of the Zanja canal. Therefore, the Historic Commission conditioned their approval to include preservation of the Zanja in place if it were to be discovered during construction and to provide a pedestrian trail linking the east and west sides of the property.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) STATUS

On July 2, 2003, a Notice of Intent (NOI) to Adopt a Mitigated Negative Declaration and Initial Study (Attachment A) was prepared and issued for public review. The mandatory 20-day public review began on July 3, 2003 and ends on July 23, 2003. The Initial Study discusses potential impact categories and appropriate mitigation measures. All of the potential impacts that were identified in the Initial Study can be mitigated to a level of insignificance. The mitigation measures are included as conditions of approval of the project. Therefore, the project can be approved with a Mitigated Negative Declaration in accordance with the requirements of CEQA.

ANALYSIS

Project Description

The project proposes a maximum of 296 apartment units on 17.5 acres for an overall density of 17 units per acre. The multi-family residential development will be a mix of 1, 2, and 3 bedroom units. The buildings contain two stories and typically will accommodate 8 units within each structure. The size of the units will range from 740 square feet to 1,320 square feet. The project is targeted to provide upscale rental housing for students, young professionals, seniors, and young families.

Amenities within the development include a recreation building, pool, spa, barbeque area, sand volleyball court, basketball courts, putting green, horseshoe pits, cabanas and ramadas (covered meeting areas), and tot lots. Parking will be provided on site and will exceed the amount required by the LLMC. There are 2.1 stalls per unit for a total of 620 stalls for the complex.

The development proposes a gated community, which will allow pedestrian access on the proposed trail through the project. The trail will traverse from the west to the east side of the site ultimately connecting the proposed Mission Historic Overlay District with the proposed Redlands Heritage Park, and the San Bernardino Asistencia. The trail is intended to follow the approximate location of the Zanja canal. Within the development, pathways, sidewalks and bike paths have been included to provide connectivity between the apartment structures, the recreational amenities, trash receptacles, the mail kiosk, and parking areas.

The adjacent 5.5-acre parcel, a remainder piece of the proposed subdivision, would be developed with commercial retail and service uses at a later date. However, four access points from the residential complex would provide connectivity to the future commercial site. Condition No. 2.13 (Attachment E) requires that access and connectivity between the multi-family residential lot and the smaller lot be provided as a condition of the Tentative Parcel Map. The condition will be implemented through the future Precise Plan of Design required for the development of the smaller lot.

General Plan Text and Map And Official Zoning Map Amendments

The project includes a request to amend the General Plan Text and Map from Commercial – Neighborhood Specialized Community to Mixed Use, and the official Zoning Map from General Business (C-2) to Planned Community (PC). The Mixed Use General Plan designation is included in the Preferred Alternative Land Use Map for the current General Plan Update. The area has been preliminarily designated as Mixed Use by the Planning Commission and City Council for the purpose of identifying a preferred alternative land use plan for the General Plan update process. The Market Evaluation that was prepared for this project supports the change in land use from commercial to a mixed use, which would include the 17.5 acres of residential. A summary of the Market Evaluation and Fiscal Analysis documents are discussed below. The proposed land use designation and zoning are not anticipated to result in any land use impacts to the surrounding area.

The intent of the Mixed Use designation is to allow for a variety of uses such as residential, commercial, institutional and light industrial and require a Planned Community or Specific Plan Zoning regulation to specify the approved uses and development standards for each planning area. The proposed Planned Community zoning designation would limit this area to residential use and ancillary amenities that would support a multiple residential development, such as a recreation center, community pool and recreational facilities, parks and trails.

Market Evaluation Study and Fiscal Analysis

The City required that the applicant provide an analysis of the commercial and residential market for the Loma Linda area and a study that would analyze the fiscal impacts of the project on the City to provide services to a predominantly residential project in an area that had been intended for commercial land use. The City's original concern was that the potential tax base generated by a commercial land use would be lost with the development of a predominantly residential project. In order to address these concerns, the applicant hired The Concord Group to provide an economic outlook of the retail demand in the area as it relates to the proposed change in land use.

The Concord market analysis began by identifying that Loma Linda is a "jobs rich" and "housing poor" community and that there is a need for additional housing to support the employment base. Per capita, Loma Linda has a higher taxable retail sales rate than adjacent cities and county areas. This current rate isn't foreseen to increase any higher than what is currently supported by the existing households within the area. Therefore new commercial projects will have to be supported by new household formations. A demand for roughly 300,000 to 350,000 square feet of new retail space is projected due to the anticipated residential growth within a two-mile radius of the site within the next five years.

As the site is currently configured, it is necessary to obtain the corner property (where the abandoned packinghouse and fuel tanks are located) in order to attract and secure an anchor tenant. Because the project site does not include the corner piece, the 5.5-acre commercial lot would only support 30,000 to 50,000 square feet of retail space. The amount of retail space could be increased to around 100,000 or 125,000 square feet if the corner parcel at California Street and Barton Road were combined with the 5.5-acre lot. This is the typical size of a retail neighborhood center, which would draw from a two-mile radius around the site. There are already three neighborhood centers in this two-mile radius: Mountain View Plaza (125,000 sf), Loma Linda Plaza (106,000 sf), and Brookside Plaza (102,000 sf).

The Concord Group market analysis recommends the retention of approximately 10 acres at the corner of California and Barton (including the corner abandoned packing house site) for future development of a commercial neighborhood center. The corner site is 4.3-acres. The applicant is setting aside 5.5-acres for future development within the project. This is a total of 9.8-acres. A 9.8-acre site would allow for the development of a 125,000 square foot neighborhood center. The recommendation to retain approximately 10-acres takes into consideration the possible expansion of California Street and the build out of University Village and Orchard Park Specific Plan areas to the west. The development of the entire site as commercial would not be a market driven option, as the depth of the overall demand and the site's characteristics are more appropriate for a mix of residential and commercial uses.

In addition to the market analysis, the applicant provided a fiscal analysis of the probable effect of the project on the City of Loma Linda's General Fund and Redevelopment Agency's (RDA) operating budget. The analysis was conducted by Alfred Gobar Associates and prepared in March 2003. The purpose of the fiscal impact analysis is to determine if project development and occupancy will generate sufficient revenue to cover the cost of providing the probable range of services that can be expected with the proposed land uses. This issue is of concern to the City of Loma Linda due to the location of the project within the IVDA Redevelopment area and not in a City of Loma Linda Redevelopment project area. (The RDA receives little or no property tax increment from residential or commercial properties in the IVDA area. However, the City can receive sales tax from commercial retail and service uses.) It was determined through this analysis that the development of residential and future retail land uses proposed for the project site could be expected to generate a significant net fiscal income stream that benefits the General Fund operating program of the City of Loma Linda. In addition, the site development would also provide tax increment pass through and affordable housing set-aside funding received from the IVDA.

Design

The structures are intended to simulate a modern craftsman style (Attachment E). The colors and materials selected are shades of earth tones such as tan and cream stucco, brown trim, grey concrete tile, and natural stone veneer accents. The colors could be

bolder, with livelier accents reminiscent of traditional craftsman color palettes. Providing several color patterns for the buildings would give each building separate identity, yet allow them to blend together based on similar architectural features. Condition No. 1.17 requires that the applicant submit revised colors and materials to the Community Development Department for review and approval.

Landscaping is provided around each building and around the perimeter of the site. A five-foot high solid wall is required to be constructed adjacent to California Street and a combination landscape berm and solid wall of seven feet high is required adjacent to Barton Road. These structures will act as sound barriers between the traffic on the two major arterials and the outside common areas of the complex. City Code requires that outside noise levels for residential uses not exceed 65 decibels. The wall and berm design and locations mitigate the noise impacts on the future residents. Condition No. 1.22 requires that these walls be designed with offsets and curvilinear features so that they are not straight and parallel with the adjacent street. This will allow for landscape accents within the offsets.

Within the complex, several common areas are designed around the clusters of buildings. These provide gathering spots for community uses. Additional common areas, added to the southern section of the development in appropriate locations amongst the buildings, also would be beneficial to the residents. Condition No. 1.19 requires that additional common areas be included on the landscape plan and reviewed and approved by the Community Development Department. One mail kiosk is provided within the development. Enclosed trash receptacles have been designed to provide attractive and ADA compliant structures, placed in convenient locations to benefit the residents. Development standards for the Planned Community project have been included with the Precise Plan of Design Document provided by the applicant.

PUBLIC COMMENTS

After distributing the original Notice of Intent and the draft Mitigated Negative Declaration to the effected agencies, staff received verbal comments from the County of San Bernardino and San Bernardino Associated Governments (SANBAG) regarding the requirement of a Traffic Impact Analysis (TIA) to meet the requirements of the regional Congestion Management Plan (CMP). The TIA would analyze the combined cumulative effects of the multi-family residential and commercial portions of the project. It was determined that if the commercial portion of the project was removed from the project description, the multi-family residential portion of the project would not exceed the thresholds of the CMP and a TIA would not be required. The commercial portion of the project is included in the analysis for the TIA that is being conducted for the General Plan Update. Mitigation measures for fair share of traffic impacts for future commercial development would be identified in the General Plan TIA. A Development Agreement will be drafted to require the applicant to pay the projected fair share of traffic impacts that will be identified in the General Plan TIA (Condition No. 2.12 – Attachment E). Public Hearings for the General Plan are scheduled to take place in the fall.

Comments received from City departments have been addressed through revisions to the project design and Conditions of Approval. Copies of all public comments are maintained in the file for Precise Plan of Design 03-01.

FINDINGS

General Plan Text and Map Amendment Findings

An amendment to the General Plan may be adopted only if all of the following findings are made:

1. *The proposed amendment is internally consistent with the General Plan;*

Changing the land use designation from "Commercial – Neighborhood Specialized Community" to "Mixed Use" would allow for a variety of residential types of development. The Mixed Use General Plan designation is consistent with the new draft General Plan, Preferred Alternative Land Use Map. The Preferred Land Use Alternative Map is the culmination of several community workshops, including two joint workshops of the City Council and Planning Commission. The intent of the Mixed Use designation is to allow for a variety of uses such as residential, commercial, institutional and light industrial and require a Planned Community or Specific Plan Zoning regulation to specify the approved uses and development standards for each planning area. The proposed Planned Community zoning designation would limit the 17.5 acre parcel to residential use and ancillary amenities that would support an apartment complex, such as a community center, community pool and recreational facilities, parks and trails.

2. *The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;*

The proposed amendment and associated development project would not be detrimental to the public in that the proposed residential community would be compatible with the existing residential community to the west. The General Plan amendment and the residential subdivision would be providing a unique residential development to the community and improving the existing condition of the site and would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

3. *The proposed amendment would maintain the appropriate balance of land uses within the City; and,*

The balance of land uses in the City will not be adversely affected by the proposed amendment. As previously stated, the draft Preferred Land Use Alternative Map designates this area as "Mixed Use". The intent of the Mixed Use designation is to allow for a variety of uses such as residential, commercial, institutional and light

industrial in a variety of settings (i.e., vertical, horizontal and parallel) and require a Planned Community or Specific Plan Zoning regulation to specify the approved uses and development standards for each planning area. The intent of the proposed amendment is to allow multi-family residential uses horizontally with and parallel to a future commercial neighborhood component on the east side of California Street and south side of Orange Street. As previously noted, pedestrian linkages would be provided between the multi-family residential uses and commercial neighborhood uses via conditions of approval for this PPD and any and all future PPDs geographically located on the block. The change of the land use designation of the site is the first step in the process of providing a variety of land use opportunities to the area.

4. *In the case of an amendment to the General Plan Land Use Map, the subject parcel(s) is physically suitable (including, but limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.*

The site has frontage on Barton Road, California Street, New Jersey Street and Orange Avenue. The surrounding area is largely undeveloped with a residential structure on Orange Avenue. All public utilities are available to the site and can be provided for future site occupants. The residential use is compatible with the existing churches and residential uses in the area.

Zone Change Findings

Changes to the zoning ordinance and map are considered legislative acts and do not require findings. State law does require that the zoning be consistent with the General Plan. A General Plan text and map amendment are included as part of the proposed application. The proposed "Planned Community" (PC) zoning district for residential development is consistent with the attached text for the proposed General Plan Land Use designation of "Mixed Use". As stated above the site is suitable for residential development under the "Planned Community" (PC) zone and the project would not cause substantial environmental damage or be detrimental to the public welfare.

Tentative Parcel Map Findings

1. *That the proposed map is consistent with the applicable general plan and zoning designations.*

The project includes a General Plan Amendment and Zone Change to "Mixed-Use" and "Planned Community" respectively. The text created for the General Plan Land Use designation of "Mixed Use" is consistent with the proposed project and would also be consistent with the "Planned Community" zoning district.

2. *The design or improvement of the proposed subdivision is consistent with the applicable general plan and zoning designations.*

The project complies with the proposed "Mixed Use" General Plan Land Use designation and was designed in accordance with the Municipal Code, Chapter 17.70 Planned Community District zone. The development of this site with the appropriate residential uses shall enhance the quality of the surrounding neighborhood and the City. This upscale apartment development will offer much needed new housing to the area.

3. *The site is physically suitable for the type of development proposed.*

The project shall not disrupt or divide the physical arrangement in the immediate vicinity. The site was previously used for agricultural purposes. The use of agricultural land is not economically viable and development of apartments will be compatible with the existing and future uses in the area. The project shall not result in impacts to the established community. The project sets aside land for future non-residential development, which can be supported by the proposed apartments and future residential projects in the area.

4. *The site is physically suitable for the proposed density of development.*

The project is compatible with the adjacent church development and new apartment project to the east within the City of Redlands. The proposed density of 17 units per acre is consistent with the General Plan designation of "Mixed Use" which allows for a maximum of 20 units per acre. The project density is also less than the maximum density of 20 units per acre allowed in the (R-3) Multifamily Residential zones within the City.

5. *The design of the subdivision is not likely to cause substantial environmental damage or substantially and unavoidably injure fish and wildlife or their habitat.*

There is no natural vegetation and no wildlife present on site. There is virtually no undisturbed area remaining on the site. Therefore, development of the site shall not cause any substantial environmental damage or substantially and unavoidably injure fish and wildlife or their habitat.

6. *The design of the subdivision is not likely to cause serious public health problems.*

The design of the subdivision and the end use of the apartment complex shall not cause any serious public health problems. The design is sensitive to the historical and cultural significance of the area. The project includes the development of a trail system and recreational amenities to facilitate physical activity for the residents. The Mitigated Negative Declaration does not identify any impacts that could cause serious public health problems.

7. *The design of the subdivision will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.*

Access to the site is provided from Barton Road, New Jersey Street and Orange Avenue. The three entrances into the site allow full access without impeding the through traffic. Access for an emergency vehicle is an adequate for maneuvering of large fire apparatus. The project creates a trail system through the site over a potable water easement line, which is thought to be adjacent to the probable location of the Zanja canal built by the Mission Indians in the early nineteenth century. The design of the proposed subdivision does not conflict with any easements such as those created for irrigation or the conveyance of utilities.

Precise Plan of Design:

1. *That the proposed project is consistent with the General Plan and Zoning designations.*

The proposed density of 17 units per acre is consistent with the General Plan designation of "Mixed Use" which allows for a maximum of 20 units per acre. The development is consistent with Goal No. 6 in the existing General Plan that states that housing opportunities in diverse styles and types in a variety of locations for all economic segments of the community and for all persons are necessary. The proposed project is designed in accordance with the Loma Linda Municipal Code, Chapter 17 and is consistent with all provisions contained in the General Plan.

2. *The design of the proposed improvements is not likely to cause substantial environmental damage or substantially and unavoidably injure fish and wildlife or their habitat.*

No natural vegetation or wildlife is present on the site. The environmental survey by RB Riggan and Associates, prepared in January 2003, lists no Federal or State listed endangered species as occurring on the subject site. The addendum to the January 2003 study, confirms that there are no wetlands on the project site. As a result, development of the subject property is not anticipated to result in any substantial environmental damage or injure fish and wildlife or their habitat.

3. *The design of the proposed improvements is not likely to cause serious public health problems.*

The Mitigated Negative Declaration for this project does not identify any impacts that could cause serious public health problems due to the proposed project.

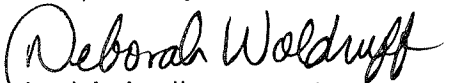
CONCLUSION

The proposed project conforms to the City's Subdivision regulations and the "Planned Community" (PC) zoning standards. The General Plan Text and Map amendment from

"Commercial – Neighborhood Specialized Community" to "Mixed Use" and the zone change from "General Business (C-2) to "Planned Community "(PC) allows the flexibility to develop a variety of residential communities that can be master planned for the proposed project site. A new and upscale apartment development in this area will provide new housing units to local residents, students, young professional singles and couples attracted, and others. All of Loma Linda's existing apartment projects are over ten years old and have few vacancies. The proposed subdivision and project are sensitive to the historical significance of the Mission Historical Overlay Zone area and compatible with the surrounding development (existing and future). The granting of this General Plan Amendment, Zone Change, Tentative Parcel Map, Precise Plan of Design and Development Agreement would not be detrimental to the public welfare or injurious to the properties in the vicinity.

The Mitigation Measures listed in the Initial Study will minimize the potential environmental impacts and are the responsibility of the subdivider. They have been made part of the Conditions of Approval.

Respectfully Submitted,


Lori A. Ludi
Senior Planner *for L.L.*

ATTACHMENTS

- A. Negative Declaration (NOI/Initial Study)
- B. Development Agreement
- C. General Plan Land Use Text Amendment
- D. Tentative Parcel Map 16120
- E. Conditions of Approval
- F. Site Plan and Architectural Elevations

ATTACHMENT A
Negative Declaration (NOI/Initial Study)

(not included - See Attachment A)

ATTACHMENT B
Draft Development Agreement

(not included - See Attachment D)

ATTACHMENT C
General Plan Land Use Text Amendment

ATTACHMENT C

GENERAL PLAN TEXT AMENDMENT

GP03-01

An amendment to the Loma Linda General Plan, Chapter Three: Planning Elements, page 12.

Mixed Use

Goal

It shall be the goal of the City of Loma Linda to:

1. To encourage the development of Livable Community concepts in the larger expansive areas of the City that are undeveloped.

Objective

It shall be the objective of the City of Loma Linda to:

- 1.1 Promote the development of “Livable Communities” by allowing a variety of uses such as residential, commercial (office, retail, and services), institutional and light industrial that can be non-standard subdivision which integrate together through the use of a specific plan or master plan.

Policy

It shall be the policy of the City of Loma Linda to:

- 1.1.1 Permit the development of a variety of single family detached units, small lot single-family unit subdivisions, and multi-family units at a density up to 20 units per gross acre in areas designated as “Mixed Use”.
- 1.1.2 Permit the development of ancillary uses to residential tracts such as community centers, recreational amenities, parks, and trails.
- 1.1.3 Permit the development of a variety of office, retail, commercial services, institutional and light industrial uses that can support the surrounding residential community.

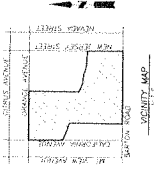
ATTACHMENT D
Tentative Parcel Map 16120

BARTON VINEYARD

TPM 16120

LOMA LINDA

BEING A SUBDIVISION OF PORTIONS OF SECTIONS 14, 23 AND 24 IN TOWNSHIP 1 NORTH, RANGE 5 WEST, S.E.W.



WET UTILITIES PLAN



AEI-CASC

9317 SOUTH MAIN AVE.
COLUMBIA, CA 95024
TEL: (925) 885-1111
FAX: (925) 885-1112



BARTON VINEYARD
PM 16120
LOMA LINDA

STATISTICS:

WIND AREA COV. 0.588000 19.29 ALPHAS
MOM 200 106.75 117.15 10.675 10.675

[illegible]

FOOTAGES	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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PARKING

12 NEW STALLS FOR VEH. REQUIRED = 0-15

CARVAYS = 90






CARVAYS = 236

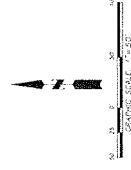
OPEN STALLS = 236

OPEN STALLS = 236

$\{P_0, P_1, \dots, P_{n-1}\} = \{P_0, P_1, \dots, P_{n-1}\}$

LEGEND:

1. 
 2. 
 3. 
 4. 
 5. 

PRELIMINARY GRADING
AND DRAINAGE PLAN

ATTACHMENT E
Conditions of Approval
(not included - See Attachment C)

ATTACHMENT F
Site Plan and Architectural Elevations

(not included - See Attachment E)

Staff Report

City of Loma Linda

From the Department of Community Development

PLANNING COMMISSION MEETING OF JUNE 25, 2003

TO: PLANNING COMMISSION

FROM: DEBORAH WOLDRUFF, AICP
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: GENERAL PLAN AMENDMENT (GPA) NO. 03-01, ZONE CHANGE (ZC) NO. 03-01 PARCEL MAP (PM) NO. 03-01-TPM 16120, PRECISE PLAN OF DESIGN (PPD) No. 02-01 AND DEVELOPMENT AGREEMENT. - A REQUEST TO SUBDIVIDE 23 ACRES INTO TWO LOTS AND CONSTRUCT A 296 UNIT APARTMENT COMPLEX ON ONE LOT AND FUTURE COMMERCIAL DEVELOPMENT ON THE SECOND LOT. THE PROJECT IS LOCATED ON THE SOUTHEAST CORNER OF CALIFORNIA STREET AND ORANGE AVENUE EXTENDING DIAGONALLY TO THE NORTHWEST CORNER OF NEW JERSEY STREET AND BARTON ROAD. THE PROPERTY IS LOCATED IN A THE GENERAL COMMERCIAL (C-2) ZONE.

SUMMARY

The applicant proposes a parcel map to subdivide 23 acres into two lots. The project site is located on the southeast corner of California Street and Orange Avenue extending diagonally to the northwest corner of New Jersey Street and Barton Road. The property is designated as Commercial-Neighborhood Specialized Community on the General Plan Land Use Map and is zoned General Commercial (C-2). The project includes a General Plan Amendment to Mixed-Use and a Zone Change to Planned Community (PC).

The Precise Plan of Design application includes a 296 unit multifamily residential apartment complex with a recreation center and pool on a 17.5-acre lot. The project has an overall density of 17 units per acre (Attachment A). The project also includes the removal and relocation of a single family dwelling and transplanting of the adjacent palm trees. The residence and the trees will be relocated to a site within the surrounding Mission Road Historic District. The project requires a Certificate of Appropriateness approval from the City Council with recommendation from the Historic Commission.

The remaining lot of 5.5 acres would be developed for commercial uses. The 5.5 acre commercial site will be developed at a later date and a separate Precise Plan of Design will be necessary prior to entitlement and development for that portion of the site.

The applicant and the City of Loma Linda, on behalf of the IVDA, will enter into a Development Agreement to assist in the production of future affordable housing needs throughout the City.

BACKGROUND

The project was presented to the Historic Commission at the March 3 and April 7, 2003 meetings to consider the issuance of a Certificate of Appropriateness for the project to relocate the pre 1900's home on Orange Avenue and the proximity of the project to the Zanja canal (Attachment B). These meetings were public hearings, which complied with the requirements of the Loma Linda Municipal Code (LLMC) Section pertaining to Historic Preservation. The applicant worked with an appointed sub committee of the Historic Commission to address concerns related to the preservation of the house and the Zanja canal. Originally the applicant requested to demolish the house at 26565 Orange Avenue. After working with the sub committee the applicant agreed to relocate the house to a location within the proposed Historic District that is owned by the City of Loma Linda. At the April 7, 2003 meeting, the Historic Commission approved the certificate of appropriateness to relocate the house at 26565 Orange Avenue and the palm trees planted adjacent to the house. The exact location of the Zanja canal could not be determined by the archeologist for the project. Therefore, the Historic Commission conditioned their approval to include preservation of the Zanja in place if it were to be discovered during construction and to provide a pedestrian trail linking the east and west sides of the property.

After distributing the Notice of Intent and the draft Mitigated Negative Declaration to the effected agencies, staff received verbal comments from the County of San Bernardino and SANBAG regarding the requirement of a Traffic Impact Analysis (TIA) to meet the requirements of the regional Congestion Management Plan (CMP). The TIA would analyze the combined cumulative effects of the multi-family and commercial portions of the project combined. It was determined that if the commercial portion of the project was removed from the project description, the multi-family portion of the project would not exceed the thresholds of the CMP and a TIA would not be required. The commercial portion of the project, in addition to the multi-family project, are included in the analysis for the TIA that is being conducted for the General Plan Update. Mitigation measures for fair share of traffic impacts for the commercial portion of the project would be identified in the General Plan TIA. A Development Agreement will be drafted to require the applicant to pay the projected fair share of traffic impacts that will be identified in the General Plan TIA, prior to occupancy. Public Hearings for the General Plan are scheduled to take place in the fall.

Therefore, the project description shall be modified to exclude the commercial portion of the project, and the environmental documents and public hearing notices must be modified, recirculated, and posted for the required 20 day public review period. Due to the change in the project description and the need to comply with the requirements of the California Environmental Quality Act (CEQA), the project can not be acted upon at the June 25th meeting.

PLAN REVIEW

The multi-family development will be a mix of 1, 2, and 3 bedroom units. The buildings are two stories in height and typically will accommodate 8 units within each structure. The units will range from 740 square feet to 1,320 square feet. Amenities within the development include a recreation building, pool, spa, barbeque area, sand volleyball court, basketball courts, putting green, horseshoe pits, cabanas and ramadas (covered meeting areas), and tot lots. Parking will be provided on site and will exceed the amount required by the LLMC.


The development proposes a gated community, which will allow pedestrian access on the proposed trail through the project. The trail will traverse from the west to the east side of the site connecting the proposed Mission Historic Overlay District, with proposed Redlands Heritage Park, and the San Bernardino Asistencia. The trail is intended to follow the approximate location of the Zanja canal.

The Planning Commission may comment on the overall design, landscaping, and layout of the project to provide the applicant with some input prior to the next meeting. Staff is supportive of the project and with mitigations and conditions of approval, the project would be compatible with the area, enhance the proposed Mission Historic Overlay District, preserve significant historic features and provide much needed multi-family housing to the City.

RECOMMENDATION

Staff recommends that the Planning Commission continue this project to the adjourned special meeting on July 23, 2003. The project will be reposted and modified public hearing and environmental notices will be distributed.

Respectfully Submitted by:


Lori A. Ludi
Senior Planner *for L.L.*

ATTACHMENTS

- A. Project Plans
- B. Staff Reports to Historic Commission on March 3 and April 7, 2003

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CONDITIONS OF APPROVAL

CONDITIONS OF APPROVAL

GENERAL PLAN AMENDMENT 03-01 ZONE CHANGE 03-01 TENTATIVE PARCEL MAP 03-01(TPM 16120) PRECISE PLAN OF DESIGN 03-01

All applicable provisions and requirements of City Codes and Ordinances shall be met for this project. All conditions unless otherwise specifies are due prior to the issuance of building permits. The following specific requirements shall also apply:

1. COMMUNITY DEVELOPMENT DEPARTMENT

- 1.1 Within one year of this approval, the Tentative Parcel Map and Precise Plan of Design shall be exercised or the permit/approval shall become null and void. This subdivision shall be granted an extension of time for up to the ten (10) year term of the Development Agreement.

PROJECT:

TENTATIVE PARCEL MAP (TPM) 03-01 (16120)
PRECISE PLAN OF DESIGN (PPD) 03-01
DEVELOPMENT AGREEMENT

EXPIRATION DATE:

August 26, 2005
August 26, 2005
August 26, 2014

- 1.2 In the event that this approval is legally challenged, the City will promptly notify the applicant of any claim or action and will cooperate fully in the defense of the matter. Once notified, the applicant agrees to defend, indemnify, and hold harmless the City, its officers, agents and employees from any claim, action or proceeding against the City of Loma Linda. The applicant further agrees to reimburse the City of any costs and attorneys' fees, which the City may be required by a court to pay as a result of such action, but such participation shall not relieve applicant of his or her obligation under this condition.
- 1.3 All of the items specified in the Development Agreement shall be made conditions of this project.
- 1.4 The proposed subdivision shall conform to all provisions of Title 16 of the Loma Linda Municipal Code.
- 1.5 Mitigation measures listed in the Mitigated Negative Declaration shall be made conditions of this project.
- 1.6 During site construction the project shall comply with Section 9.20.050 (Prohibited Noises) of the Loma Linda Municipal Code, which requires that construction activities cease between the hours of 10:00 p.m. and 7:00 a.m.

Cultural Resources

- 1.7 The residence at 26565 Orange Avenue and the two rows of palm trees shall be relocated to a site located within the proposed Mission Historic Overlay District. The developer shall pay all costs of the relocation to a temporary or permanent site as agreed upon by the City of Loma Linda. The trees shall be relocated by a licensed arborist in accordance to the standards developed by the International Society of Arboriculture.
- 1.8 A photo recordation of the architectural feature in its historic location and the structural characteristics of the residence at 26565 Orange Avenue prior to the relocation of the building and the palm trees.
- 1.9 A subsurface archeological testing program shall be implemented on the section of the Mill Creek Zanja. Full-time monitoring by a licensed archeologist during all grubbing grading and utility trenching activities where intact soils below the upper 2 feet of grade are disturbed shall be required.
- 1.10 Full-time monitoring by a licensed archeologist shall be required during all grubbing grading and utility trenching activities where intact soils below the upper 2 feet of grade are disturbed. Native American tribal monitors (from groups indicated by the NAHC) shall be hired by the project proponent and should be on site during the grubbing, grading and utility trenching phases of the project. These monitors should also be on-site during any archaeological Phase 2 (testing) or Phase 3 (excavation) work.
- 1.11 Should any human remains be discovered during construction activities, all work in the area shall be suspended and the San Bernardino County Coroner shall be notified of the discovery. Work shall not resume until the Coroner has approved resumption of activities.

Architectural and Landscape Plans

- 1.12 The applicant shall submit three sets of the final landscape plan prepared by a state licensed Landscape Architect, subject to approval by the Community Development Department, and by the Public Works Department for landscaping in the public right-of-way. Landscape plans for the Landscape Maintenance District shall be on separate plans.
- 1.13 Final landscape and irrigation plans shall be in substantial conformance with the approved conceptual landscape plan and these conditions of approval.
- 1.14 All fencing shall be installed with the apartments and shall be illustrated on the final landscape plan. An elevation of the proposed fencing and perimeter wall shall be submitted to the Community Development Department and the Public Works Department for review and approval prior to issuance of building permits.
- 1.15 Indicate the location of air conditioner condensers in the yards and address the noise level issues according to City of Loma Linda Noise Ordinance.

- 1.16 The palm trees surrounding the residence at 26565 Orange Street will be relocated onto City owned property within the Mission Road Historic District. The relocation of the trees shall be completed by a licensed arborist and shall follow the standards of the International Society of Arboriculture.
- 1.17 All colors and materials shall be reviewed and approved by the Community Development Department prior to issuance of building permits. A mix of color palettes and materials shall be used on each structure and a combination of neutral colors shall be avoided.
- 1.18 Final street light style, specifications and location shall be included in the working drawings, subject to review and approval of the Community Development Department and Public Works Department prior to issuance of building permits.
- 1.19 Additional common areas for gathering points shall be provided in between the proposed dwelling structures. Review and approval of the additional common areas by the Community Development Department shall be required prior to issuance of building permits.
- 1.20 The exterior living areas must comply with the City's 65 CNEL exterior noise standard. Noise barriers will be required along Barton Road and along California Street. Noise barriers must consist of a wall, berm or combination of the two. The noise barriers must have a surface density of 3.5 pounds per square foot and shall have no openings or gaps. These walls may be constructed of stud and stucco, 3/8-inch plate glass, 5/8-inch Plexiglas, any masonry material, or combination of these materials. First floor exterior living areas are projected to meet the 65 CNEL outdoor noise standard with the specified noise barriers. The walls shall be located at top of slope. If balconies are planned for the project, balcony barriers may be required. Any balcony barriers required will need to be determined in a future study, when architectural drawings for the project are available, and prior to the issuance of building permits.
- 1.21 A five (5) foot high solid wall shall be constructed along California Street extending one hundred (100) feet along the southern property line and one hundred (100) feet along the northern property line, adjacent to Orange Avenue. A seven (7) foot high solid barrier consisting of a landscape berm and a maximum six (6) foot high solid wall shall be constructed along the Barton Road. The barrier shall begin east of the recreation facility access and continue east along Barton Road and extend one hundred (100) feet north adjacent to New Jersey Street.
- 1.22 The walls required in Condition 1.21 shall meander and provide an offset and not be completely parallel to the adjacent street. The wall shall be split face or decorative on both sides. Location and design shall be reviewed and approved by the Community Development Department prior to issuance of building permits.
- 1.23 The side walk shall comply with the City of Loma Linda standards and shall not meander.
- 1.24 Prior to the issuance of grading permits and any building permits, an indoor noise analysis shall be conducted and any recommended mitigation measures related to construction materials and construction practices shall be implemented.

- 1.25 The applicant shall note on the final plans that a six-foot-high chain-link fence shall be installed around the site prior to building construction stages. Gated entrances shall be permitted along the perimeter of the site for construction vehicles.

2. PARCEL MAP

- 2.1 Prior to issuance of permits the Final Map shall be recorded with the San Bernardino County Recorder pursuant to the provisions of the State Subdivision Map Act.
- 2.2 Install or bond for all street improvements prior to recording the final Parcel Map.
- 2.3 Dedicate a corner cutoff at the right-of-way line in accordance with the City of Loma Linda standards.
- 2.4 At the time of Parcel Map submittal, submit the following: Traverse calculations, copies of recorded maps and deeds used as reference and/or showing original land division, tie notes and bench marks referenced, and a current title report. The traverse calculation sheets to show error of closure. Inverse calculations will not be acceptable for plan check review.
- 2.5 Two points of vehicular ingress and egress will be required from each tract phase to the City maintained road system; one of which may be an emergency access subject to the approval of the Public Works Department and the Public Safety Department. Two points of vehicular ingress and egress will be required from each tract phase to the City maintained road system; one of which may be an emergency access subject to the approval of the Public Works Department and the Public Safety Department.
- 2.6 Dedicate by Parcel Map, or separate document approved by the Public Works Department, the following rights-of-way:
 - 40 feet to centerline on Orange Avenue
 - 38 feet to centerline on New Jersey Street
 - 72 feet to centerline on California Street
- 2.7 All areas to be landscaped in front of the project boundary walls, within traffic medians, and along the project street frontages shall be annexed to the City of Loma Linda's Landscape Maintenance District in accordance with the City's policy.
- 2.8 Prior to final map approval and issuance of permits, Landscape Maintenance District annexation proceedings shall be completed.
- 2.9 Prior to final map approval, provide dedication of right-of-way to the City, including areas off-site, to transition existing traffic and drainage flows to the proposed project.
- 2.10 Provide a financial mechanism for the maintenance of the detention basins to be set in place and approved by the Public Works Department prior to recordation.
- 2.11 No commencement of public street work, except rough grading, until dedication for that street has been recorded.

- 2.12 Prior to issuance of any permits for the 5.5 acre site, the developer shall pay their fair share for traffic improvements associated with the development, as identified through the Traffic Impact Analysis approved for the General Plan.
- 2.13 Access and connectivity at several key locations shall be provided between the multi-family lot and the smaller 5.5 acre site. Review and approval of the connectivity between the two sites shall be reviewed and approved by the Planning Commission through a Precise Plan of Design application for the smaller 5.5 acre site.

3. PUBLIC WORKS DEPARTMENT

- 3.1 The boundary of the entire map surveyed and monumented at the time the first phase is finalized.
- 3.2 The Construction and Demolition Policy of the City of Loma Linda shall be followed, and copies of recycling manifests with a final report shall be submitted to the City of Loma Linda. The contractor shall use the City's waste hauler during construction for all debris and recycling.
- 3.3 Trash enclosures shall be sized to accommodate a recycle bin.
- 3.4 Submit grading plans to the Public Works Department for review and approval along with the preliminary soils report and hydrology study. Comply with the City of Loma Linda grading standards as shown on the grading plan checklist.
- 3.5 Submit structural design and location for any required walls for review by the Building and Safety Department.
- 3.6 Submit to Public Works Department an erosion control plan to minimize potential increases in erosion and sediment transport during construction and post construction. Place erosion control measures prior to issuance of building permits. An erosion control deposit will be required prior to recordation of final map or issuance of grading permits whichever occurs first. NPDES regulations apply.
- 3.7 Dust abatement will be made a condition of the grading plans for this project.
- 3.8 Submit original wet signed and stamped grading certifications from the soils engineer and the grading engineer, along with compaction reports to the Public Works Department.
- 3.9 The precise grading plan for the project must be approved prior to issuance of any building permits.
- 3.10 Submit final grade certifications, by the grading engineer, to the Public Works Department prior to issuance of any Certificate of Occupancy.

- 3.11 Obtain required permits prior to any construction within the City's right-of-way.
- 3.12 Any abandoned wells on the property or similar structures shall be destroyed in a manner approved by the Public Works Department.
- 3.13 All underground structures, except those desired to be retained, must be broken in, backfilled, and inspected before covering.
- 3.14 Provide, to the maximum extent practicable, for the recycling and reuse of existing materials. Coordinate with the Public Works Department to obtain a list of recyclable/reusable materials and recycling vendors. Provide a report of materials recycled/reused; report to include type of materials and quantities of materials recycled/reused.
- 3.15 During construction of the proposed improvements, only low volatility paints and coatings, as specified in SCAQMD Rule 1113, shall be used. All paints shall be applied using either high-volume, low-pressure (HVLP) spray equipment or by hand.
- 3.16 Comply with the prevailing City standards and requirements at the time of construction.
- 3.17 Comply with the City of Loma Linda's Construction and Demolition Policy. Submit all required information prior to issuance of the building permits.
- 3.18 During construction of the site, the project shall comply with Section 9.20 (Prohibited Noises) of the Loma Linda Municipal Code, which requires that construction activities cease between the hours of 10:00 p.m. to 7:00 a.m.

Street Improvements

- 3.19 Construct full street improvements (including, but not limited to curb and gutter, asphalt concrete pavement, aggregate base, sidewalk, one drive approach per lot, and street lights) on all streets.
- 3.20 Provide for street lighting within the tract as follows:
 - a. Deposit moneys with the Southern California Edison Company to cover all installation and connection charges for street lights per adopted City policy regarding pole spacing and location.
 - b. Street lights installed and energized prior to release for occupancy, unless otherwise approved by the Public Works Department.
- 3.21 Any existing streets cut for installation of new services will require an A.C. overlay.
- 3.22 Provide adequate corner sight distance per Caltrans standards at intersection and submit verification of same to the Public Works Department as required in conjunction with plan checking of the street improvement plans.

- 3.23 Any existing streets cut for installation of new services will require an A.C. overlay.
- 3.24 Provide adequate corner sight distance per Caltrans standards at intersection and submit verification of same to the Public Works Department as required in conjunction with plan checking of the street improvement plans.
- 3.25 Provide sidewalks on all public streets.
- 3.26 Indicate the location of any existing utility facility that would affect construction on improvement plan and profile.
- 3.27 Submit a thorough evaluation of the structural road section, from a qualified soil engineer, to the Public Works Department. Include a recommended street structural section, designed for a service life of 20 years as outlined in Section 600 of the Caltrans Highway Design Manual. The minimum section is 3-1/2" A.C./6" A.B.
- 3.28 Install improvements (including off-site) to transition traffic and drainage flows from proposed to existing.
- 3.29 Obtain and complete the City's street and storm drain improvements checklists and provide engineered plans for all improvements.
- 3.30 Design public improvements including sidewalk, drive approaches and handicap ramps in accordance with all requirements of the State of California Accessibility Standards, Title 24 California Administrative Code.
- 3.31 Install street name signs and traffic control signs with locations and types approved by the Public Works Department.
- 3.32 Stripe and sign for bike lanes for roadway designated by the City for bike lanes.
- 3.33 "Record Revisions" made to all plans to reflect the changes to the improvements as constructed.

Drainage

- 3.34 Provide engineered plans for all drainage improvements, to the Public Works Department for approval.
- 3.35 A complete hydrology study and hydraulic calculations shall be submitted for review and approval by the Public Works Department to determine storm runoff quantities contributing to the site and determine building pad elevations.
- 3.36 Provide adequate provisions to intercept and conduct the off-site tributary drainage flow around or through the site in a manner that will not adversely affect adjacent or downstream properties.

- 3.37 The natural drainage courses should be left in their natural state and not occupied or obstructed. Establish adequate building setback lines to preclude the construction of any structures in the overflow area of the natural drainage courses. Elevate structure above the determined flood stage levels, not to impede or deflect flood flows for construction in established flood overflow areas.
- 3.38 Prior to any construction activities, the project proponent will submit a proposed storm drain system designed to handle flows from the anticipated runoff created by this project to the City for review and approval.
- 3.39 Investigate any existing downstream drainage problems and provide the Public Works Department with a detailed drainage analysis showing proposes to handle the drainage flows from and through the site without adversely affecting adjacent or downstream properties.
- 3.40 All site drainage shall be handled on-site and any increase in the existing 100-year flows discharging onto adjacent properties shall be mitigated through the use of on-site detention basins.
- 3.41 An erosion/sediment control plan and a Water Quality Management Plan are required to address on-site drainage construction and operation.
- 3.42 All necessary precautions and preventive measures shall be in place in order to prevent material from being washed away by surface waters of blown by wind. These controls shall include at a minimum: Regular wetting of surface or other similar wind control method, installation of straw or fiber mats to prevent rain related erosion. Detention basin(s) or other appropriately sized barrier to surface flow must be installed at the discharge point(s) of drainage from the site. Any water collected from these controls shall be appropriately disposed of at a disposal site. These measures shall be added as general notes on the site plan and a statement added that the operator is responsible for ensuring that these measures continue to be effective during the duration of the project construction.
- 3.43 Appropriate controls shall be installed to prevent all materials from being tracked off-site by vehicles or other means. These controls may include gravel exits or wash-down areas. Any materials tracked off-site must be removed as soon as possible, not no later than the end of the operation day. This material shall be disposed of at an appropriate disposal site. These measures shall be added as general notes on the site plan and a statement added that the operator is responsible for ensuring that these measures continue to be effective during the duration of the project construction.
- 3.44 Obtain flowage easements where diversion or concentration of runoff from the site or drainage facilities dewater onto private property.
- 3.45 Submit additional improvement plans and profiles to the drainage requirements stated herein, for other "on-site" or "off-site" improvements not determined from tentative plans, to the Public Works Department for review.

- 3.46 Design and construct detention basins in accordance with the criteria set forth in the San Bernardino County Detention Basin Policy, adopted by the San Bernardino County Board of Supervisors. All work to be reviewed and approved by the Public Works Department.
- 3.47 Prior to issuance of grading permits, the applicant shall obtain coverage under the NPDES Statewide Industrial Stormwater Permit for General Construction Activities from the State Water Resources Control Board. Evidence that this has been obtained shall be submitted to the City of Loma Linda Public Works Department.

Utilities

- 3.48 Connect to City of Loma Linda sewer system.
- 3.49 Connect to City of Loma Linda water system.
- 3.50 Provide all utility services to each lot, including sanitary sewer, water, electric power, cable, gas, and telephone. All utilities are to be underground.
- 3.51 Pay for the relocation of any power poles or other existing public utilities as necessary.
- 3.52 Water mains shall be sized and installed as shown on approved utility plans for potable and non-potable service to the development. Submit plans for review and approval.
- 3.53 All fire hydrants and their distribution mains shall be made part of the Public System.
- 3.54 Meter size shall be as shown on the approved set of utility plans.
- 3.55 Service lines from the main and the water meters shall be installed in accordance with City of Loma Linda standards.
- 3.56 All water use for planned domestic, fire lines, and irrigation shall all be metered separately.
- 3.57 Improvement plans are to include all connections and locations to the City mains for on-site irrigation, including all meter and backflow prevention devices.
- 3.58 All relocation costs for affected utilities will be borne by the developer/property owner.
- 3.59 All sanitary sewers are to be designed to remove the domestic sewage to the existing public sewer mains located in the right-of-way.
- 3.60 All utility services serving the site shall be installed and maintained underground as depicted on the site plan.
- 3.61 The developer shall be responsible for paying for the relocation of any power poles or other existing public utilities as necessary.

4. PUBLIC SAFETY DEPARTMENT

- 4.1 All construction shall meet the requirements of the editions of the *Uniform Building Code* (UBC)/California Building Code (CBC) and the *Uniform Fire Code* (UFC)/California Fire Code (CFC) as adopted and amended by the City of Loma Linda and legally in effect at the time of issuance of building permit. [Code Requirement]
- 4.2 Pursuant to UBC Section 904.2.2, as amended in Loma Linda Municipal Code (LLMC) Section 15.08.240, the buildings shall be equipped with automatic fire sprinkler systems meeting the requirements of National Fire Protection Association (NFPA) 13D. Garages shall be included in the design. [Code Requirement]
- 4.3 A utility improvement plan shall be submitted by the developer to show locations of fire hydrants for Public Safety Department review.
- 4.4 Pursuant to UFC Section 1001.3, plans and specifications for the fire sprinkler systems shall be submitted to Fire Prevention for review and approval prior to installation. [Code Requirement]
- 4.5 Sufficient turning radii shall be provided throughout the apartment complex for fire apparatus access. [Code Requirement] A statement assuring such access shall be provided.
- 4.6 Building addresses shall be as assigned by the Public Safety Department upon submittal of a working copy of the Final Parcel Map. [City Policy]
- 4.7 Illuminated building address numbers shall be provided. Addresses shall be a minimum height of eight inches and visible from the public right-of-way.
- 4.8 The sprinkler system for each residence shall be NFPA and sprinklers must be located in the attic, small/concealed spaces and garages.
- 4.9 Future specific code requirements may be applied at the time of plan check an/or field inspections. [City Policy]

5. FEES/PERMITS/BONDING

- 5.1 Within forty-eight (48) hours of approval of the subject project, the applicant shall deliver to the Community Development Department, check or money order made payable to the **COUNTY OF SAN BERNARDINO** in the amount of \$35.00 (*thirty five dollars*) to enable the City to file the appropriate environmental documentation for the project. If within such forty-eight (48) hour period that applicant has not delivered to the Community Development Department the above-noted check, the statute of limitations for any interested party to challenge the environmental determination under the provisions of the California Environmental Quality Act could be significantly lengthened.

- 5.2 Pay appropriate fees for plan check, inspection, permits, GIS map plan update, microfilming and storage of maps and plans, and other required fees.
- 5.3 Prior to issuance of any permits the developer shall pay 5.8 percent, which is the fair share for the project, of the estimated costs for traffic improvements at the intersection of California Street and Redlands Boulevard.
- 5.4 Prior to issuance of any permits the developer shall pay 8.3 percent, which is the fair share for the project, of the estimated costs for traffic improvements for the extension of Orange Avenue to the West of California Street, realigning Mission Road.
- 5.5 Bond all required off-site improvements in accordance with City Development Code unless constructed and approved prior to recordation of Final Map. No commencement of public street work until the dedication for that street has been recorded. No releasing of a deposit posted for erosion control and monumentation prior to completion of all on-site construction.
- 5.6 If 5,000 cubic yards or more of earthwork is proposed, a grading bond will be required and grading be supervised in accordance with Section 3311(c) of the California Building Code.
- 5.7 All studies required within these conditions require a deposit to cover the cost of the review of the studies. Additional deposits may be required or a refund issued when the costs do not match the deposits.
- 5.8 Development Impact fees shall be paid to the City of Loma Linda prior to the issuance of the certificate of occupancy.
- 5.9 Fire Station and Fire Equipment Development Impact Fees shall be assessed to the project at the rates established for Single-Family Residential development in the City's Resolution "Establishing A Schedule Of Development Impact Fees To Finance Capital Facilities Necessitated By New Development" legally in effect at the time of issuance of building permit. Pursuant to LLMC Chapter 3.28, plan check and inspection fees shall be collected at the rates established by City Manager's Executive Order. [Code Requirement]
- 5.10 Submit proof of payment from the City of San Bernardino for sewer capacity fees and Redlands Unified School District to the Community Development Department prior to the issuance of any building permits.
- 5.11 Permits from other agencies will be required as follows:
 - a. D.I.S. Trenching Permit for all trenches are over 5 feet deep.
 - b. NPDES: Notice of Intent; Storm Water Pollution Prevention Plan
- 5.12 Submit the City Subdivision Agreement form for the agreement for construction of improvements with the City of Loma Linda.

- 5.13 All studies required within these conditions require a deposit to cover the cost of the review of the studies. Additional deposits may be required or a refund issued when the costs do not match the deposits.
- 5.14 The applicant shall enter into a Development Agreement with the City of Loma Linda Redevelopment Agency on behalf of the IVDA to ensure construction and establish covenants for affordable units in the amount of 15 percent of the total number of units as prescribed by the City and the IVDA. In lieu of constructing the affordable units, a fee can be paid to the City of Loma Linda on behalf of the IVDA to assist in the development of affordable units within the project area.

6. OPERATIONS

- 6.1 The property owner shall be responsible for the operation, management, use, repair and maintenance of all common areas and facilities including pool areas, recreational facilities, parks, landscaped areas and lots, trails, pathways, walls and fences, ramadas, and paseos.
- 6.2 All landscaping shall be properly maintained such that they are evenly cut, evenly edged, free of bare or brown spots, free of debris and free of weeds above the level of the lawn. All planted areas other than lawns shall be free of weeds, dead vegetation and debris. All trees and shrubs shall be trimmed so they do not impede pedestrian traffic along the walkways. All trees shall also be root pruned to eliminate exposed surface roots and damage to sidewalks, driveways and structures.
- 6.3 Common areas shall be maintained in such a manner as to avoid the reasonable determination of a duly authorized official of the City that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to public health, safety or general welfare, or that such a condition of deterioration or disrepair cause harm or is materially detrimental to property values or improvements within the surrounding area.
- 6.4 Residents shall not store or park any non-motorized vehicles, trailers regardless of length, or motorized vehicles that exceed 7 feet high, 7 feet wide or 20 feet long in any parking or driveway area except for purpose of loading, unloading, making deliveries or emergency repairs
- 6.5 Storage of personal items may occur in the garages only to the extent that vehicles may still be able to be parked within the required garage spaces. Outside storage of personal items shall not be permitted.
- 6.6 A policy handbook shall be submitted to the Community Development Department for review prior to occupancy. A provision in the policy handbook shall address that garages shall be used for vehicular storage only.

DEVELOPMENT AGREEMENT

(not included - refer to Council Bill No. O-2003-7)

PROJECT PLANS

MARKET EVALUATION AND FISCAL ANALYSIS

(Not included – previously distributed)

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LOMA LINDA, AMENDING THE LAND USE ELEMENT MAP
OF THE ADOPTED GENERAL PLAN (GPA NO. 03-01)

WHEREAS, the City of Loma Linda has adopted a Land Use Element of the General Plan in accordance with State Planning and Zoning law; and

WHEREAS, the Applicant has requested a General Plan Amendment from Commercial Neighborhood Specialized Community to a Mixed Use designation on the southeast corner of California Street and Orange Avenue and extending diagonally to the northwest corner of New Jersey Street and Barton Road for approximately 23 acres; and

WHEREAS, the General Plan Amendment request is accompanied by a Tentative Parcel Map request to subdivide 23 acres into two lots of 17.5 acres for the development of 296 units and 5.5 acres for future commercial development; and

WHEREAS, the City Council finds that the General Plan Amendment would be consistent with general goals and objectives of the Land Use Element Policies and other elements of the General Plan, and would allow appropriate land uses for the subject site based on its location, topography and surrounding land uses and its compatibility with other portions of the Land Use Element in the vicinity; and

WHEREAS, the public hearings have been held as provided by law, and other formalities required by law for amending the General Plan have been met; and

WHEREAS, said amendment was reviewed by the Planning Commission at a duly noticed public hearing and approved with findings that said map amendment was compatible with adjacent land use designations in the General Plan; and

WHEREAS, the City Council has reviewed and adopted a Mitigated Negative Declaration of Impact based on a determination that the amendments will not result in any significant impacts

and that the potential impacts of the project can be mitigated to a level of insignificance pursuant to conditions of approval;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Loma Linda that the adopted Land Use Element of the General Plan has hereinbefore been amended per Exhibit "A" attached hereto and made a part hereof, in the following manner:

That area generally described as approximately 23 acres located on the southeast corner of California Street and Orange Avenue and extending diagonally to the northwest corner of New Jersey Street and Barton Road,
AMENDING THE GENERAL PLAN FROM COMMERCIAL-
NEIGHBORHOOD SPECIALIZED COMMUNITY TO MIXED USE

BE IT FURTHER RESOLVED that those exhibits comprising the General Plan shall be amended to show the change in land use as above mentioned, and that the City Clerk shall maintain three copies of the amended General Plan available for loan to the public.

PASSED, APPROVED AND ADOPTED this 26th day of August 2003 by the following vote:

Ayes:
Noes:
Abstain:
Absent:

Floyd Petersen, Mayor

ATTEST:

Pamela Byrnes-O'Camb, City Clerk

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LOMA LINDA FROM GENERAL BUSINESS (C-2) TO PLANNED COMMUNITY (PC) FOR THAT AREA EXTENDING DIAGONALLY FROM THE SOUTHEAST CORNER OF CALIFORNIA STREET AND ORANGE AVENUE TO THE NORTHWEST CORNER OF NEW JERSEY STREET AND BARTON ROAD (ZONE CHANGE 03-01)

Section 1. Adoption of Ordinance: The City Council of the City of Loma Linda, California, does hereby ordain as follows:

Section 2. Statement of Intent: It is the purpose of the Ordinance to amend various zoning designations in this City and adopt a revised Zoning Map.

Section 3. Amendment of Zoning Designation: The zoning of the City of Loma Linda is hereby amended to change the following described property within the City of Loma Linda to Planned Community zoning per Exhibit "A" attached hereto and made a part hereof:

That property generally described as approximately 23 acres extending diagonally from the southeast corner of California Street and Orange Avenue to the northwest corner of New Jersey Street and Barton Road. The development shall include a 296 unit apartment complex as described in the Precise Plan of Design approval.

Section 4. Validity. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such holding or holdings shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

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Section 5. Posting. Prior to the expiration of fifteen (15) days from its passage, the City Clerk shall cause this Ordinance to be posted pursuant to law in three (3) public places designated for such purpose by the City Council.

This Ordinance was introduced at the regular meeting of the City Council of the City of Loma Linda, California, held on the _____ day of August 2003, and was adopted on the _____ day of September 2003 by the following vote to wit:

Ayes:

Noes:

Abstain:

Absent:

Floyd Petersen, Mayor

Attest:

Pamela Byrnes-O'Camb, City Clerk

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LOMA LINDA APPROVING AND ADOPTING
THE DEVELOPMENT AGREEMENT BETWEEN THE
SPANOS CORPORATION, INC. AND THE CITY OF
LOMA LINDA

WHEREAS, Government Code Sections 65864 through 68569.5 provide the statutory authority for development agreements between municipalities and persons owning real property interest in the City; and

WHEREAS, the City has received an application to consider a development agreement and proceedings have been taken in accordance with City's rules and regulations, including, without limitation, a public hearing on the application by the Planning Commission and by the City Council; and

WHEREAS, notice of the City Council's intention to consider adoption of a development agreement has been given as provided by law; and

WHEREAS, the City has completed the preparation of an Initial Study and Mitigated Negative Declaration ("MND") in accordance with the California Environmental Quality Act, Public Resources Code sections 21000 et seq. ("CEQA") and its implementing regulations contained in Title 14 of the California Code of Regulations, sections 15000 et seq. (the "CEQA Guidelines"), and has made the MND available to the public and to all interested agencies for review and comment, as required by CEQA; and

WHEREAS, the City has considered all comments and correspondence, if any, received in response to the MND, and the findings and conclusions made by the City pursuant to this Ordinance are based upon all of the oral and written evidence presented to it and taken as a whole.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMA LINDA DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. The City Council finds that the provisions of the development agreement are consistent with the General Plan and the Zoning Ordinance of the City of Loma Linda.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT. The City Council hereby approves and adopts the "Development Agreement between The Spanos Corporation, Inc. and the City of Loma Linda" attached as Exhibit "A" and incorporated by reference. The City Manager and City Clerk of the City of Loma Linda are hereby authorized and directed to execute and attest, respectively, the Agreement on behalf of the City of Loma Linda.

SECTION 3. CEQA. The City hereby finds and ordains that:

- A. The MND reflects the independent judgment of the City.
- B. There is no evidence that the approval and implementation of the Development Agreement, together with the mitigation measures incorporated pursuant to the MND, will have the potential to cause an adverse effect on wildlife resources or the habitat on which such wildlife depends, and the City finds, on the basis of the substantial evidence in the record, that the presumption of adverse effect set forth in 14 Cal. Code of Regs. § 753.5(d) does not apply.
- C. There is no substantial evidence in light of the whole record that the approval and implementation of the Development Agreement, with the mitigation measures incorporated therein, would have a significant effect on the environment.
- D. The City hereby approves and adopts the MND and directs staff to:
 - (1) Prepare and file a Certificate of Fee Exemption with the California Department of Fish and Game pursuant to 14 California Code of Regulations section 753.5; and
 - (2) Prepare and file a Notice of Determination with the Clerk of the County of San Bernardino and the Office of Planning and Research pursuant to 14 California Code of Regulations section 15075; and
 - (3) Keep a copy of the MND and all documents referenced therein at the City offices and available for public review.

SECTION 4. RECORDATION. The City Clerk is directed to transmit the development agreement to the County Recorder for recordation no later than ten (10) days after the adoption of this ordinance.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Loma Linda and to cause publication once in The Sun, the official newspaper of the City of Loma Linda, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

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Introduced at a regular meeting of the City Council held on August 26, 2003, and adopted as an ordinance of the City of Loma Linda at a regular meeting of the City Council held on _____, 2003 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Floyd Petersen, Mayor

ATTEST:

Pamela Byrnes-O'Camb, City Clerk

RECORDING REQUEST BY, AND
WHEN RECORDED, MAIL TO:

City Clerk
City of Loma Linda
25541 Barton Road
Loma Linda, CA 92354

EXEMPT FROM FILING FEES. CAL. GOV'T CODE § 6103

(Space above this line for Recorder's use)

DEVELOPMENT AGREEMENT

BETWEEN

THE SPANOS CORPORATION, INC.

AND

THE CITY OF LOMA LINDA

*(Pursuant to California Government Code Sections 65864 – 65869.5
and City of Loma Linda Ordinance No. ____)*

August __, 2003

Parcel Map No. 16120

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DEVELOPMENT AGREEMENT NO.

This Development Agreement (hereinafter "**Agreement**") is entered into effective as of the date approved by the City of Loma (hereinafter the "**Effective Date**") by the CITY OF LOMA LINDA (hereinafter "**City**"), and THE SPANOS CORPORATION, INC., a California corporation (hereinafter "**Owner**");

RECITALS

WHEREAS, Owner owns property located in the eastern part of the City consisting of the property generally located near the northeast corner of the intersection of Barton Road and California Street, bordering Orange Avenue and New Jersey Street in the City of Loma Linda, also referred to as A.P.N. 0292-162-001 and 0292-162-005, which property (the "Property") consists of approximately 17.5 acres. The Property is described on **Exhibit "A"** attached and made a part of this Agreement by this reference; and

WHEREAS, Owner proposes to redevelop (or to cause to be redeveloped) the Property as a multi-family residential development consisting of approximately two hundred ninety-six (296) apartments (the "**Project**"); and

WHEREAS, the Project has received approval for a mitigated negative declaration, general plan amendment, zone change and parcel map, Owner has applied to City for land use entitlements for the Project as well as this Agreement (the "**Entitlements**"); and

WHEREAS, City is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq., of the Government Code; and

WHEREAS, Owner has requested City to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of City; and

WHEREAS, by electing to enter into this Agreement, City shall bind future City Councils of City by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of City; and

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by City staff, the Planning Commission and the City Council and have been found to be fair, just and reasonable; and

WHEREAS, the best interests of the citizens of City and the public health, safety and welfare will be served by entering into this Agreement; and

WHEREAS, all actions taken and approvals given by City have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the property subject to this Agreement, ensure progressive installation of

necessary public and private improvements, provide for public services appropriate to the development of Owner's development project, and generally serve the purposes for which development agreements under Sections 65864, et seq. of the Government Code are intended; and

WHEREAS, on July 23, 2003, the Planning Commission of the City of Loma Linda (the "Planning Commission"), after giving notice pursuant to Government Code Sections 65854, 65854.5 and 65856, held a public hearing on Owner's application for this Agreement. On August 26, 2003, the City Council of the City of Loma Linda (the "City Council"), after providing public notice as required by law, similarly held a public hearing to consider Owner's application for this Agreement; and

WHEREAS, the Planning Commission and the City Council have found that this Agreement and the Project contemplated hereby are consistent with the General Plan, the approved tentative map, related project approvals and all other applicable plans, rules, regulations and official policies of City; and

WHEREAS, in accordance with the requirements of CEQA (Public Resources Code Sections 21000 et seq., appropriate studies, analyses, reports or documents were prepared and considered by the Planning Commission and the City Council. After the Planning Commission and the City Council made appropriate findings, the City Council certified, by Minute Order No. LL-2003-____ adopted on _____, 2003, a Mitigated Negative Declaration (the "Environmental Clearance") for the Project in compliance with CEQA; and

WHEREAS, on _____, 2003, the City Council adopted Ordinance No. _____ approving this Agreement with Owner.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "City" means the City of Loma Linda, a political subdivision of the State of California.

1.1.3 "City Council" means the City Council of the City of Loma Linda.

1.1.4 "Development" means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of residential dwelling units, buildings and structures; and the installation of landscaping. "Development" does not include the

maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.5 “Development Approvals” means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property including, but not limited to:

- (a) General plan;
- (b) Tentative and final subdivision and parcel maps;
- (c) Conditional use permits, variances, site plot plans;
- (d) Zoning amendments;
- (e) Grading and building permits;
- (f) Street and utility improvement permits.

1.1.6 “Development Exaction” means any requirement of City in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests. The term “Development Exaction” or “Exaction” shall not include City administrative, permit processing or other City-wide imposed development fees to cover the estimated or actual costs to City of processing applications for Development Approvals, Subsequent Development Approvals, or costs associated with preparation or implementation of this Development Agreement or for monitoring compliance with any Development Approvals which may be granted or issued pursuant to this Agreement.

1.1.7 “Development Plan” means the Development Approvals and the Land Use Regulations applicable to development of the Property, including but not limited to the Environmental Clearance and Parcel Map No. 16120.

1.1.8 “Effective Date” means the date this Agreement is approved by the City.

1.1.9 “Existing Development Approvals” means all Development Approvals approved or issued prior to the Effective Date and all other Approvals which are a matter of public record on the Effective Date.

1.1.10 “Existing Land Use Regulations” means all Land Use Regulations in effect on the Effective Date and all other Development Regulations which are a matter of public record on the Effective Date.

1.1.11 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and

specifications applicable to the development of the Property. "Land Use Regulations" does not include any City ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) The conduct of businesses, professions, and occupations;
- (b) Taxes and assessments;
- (c) The control and abatement of nuisances;
- (d) The granting of encroachment permits and the conveyance of rights and interests which provide for the use of or the entry upon public property;
- (e) The exercise of the power of eminent domain.

1.1.12 "Owner" means the persons and entities listed as Owner on page 1 of this Agreement and their successors in interest to all or any part of the Property.

1.1.13 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.14 "Project" means the development of the Property contemplated by the Development Plan as defined herein as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.15 "Property" means the real property described on **Exhibit "A"** to this Agreement and made a part herein by this reference.

1.1.16 "Subsequent Development Approvals" means all Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.17 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the Owner of the fee simple title to the Property.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of five (5) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer or assign the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map

Act, Government Code Section 66410, et seq.) to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement as applied to the Property in whole or in part and be made in compliance with the following conditions precedent:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property;

(b) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, Owner shall notify City, in writing, of such sale, transfer or assignment and shall provide City with an executed agreement, in a form reasonably acceptable to City, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of Owner under this Agreement which apply to the Property in whole or in part being sold, transferred or assigned.

(c) Termination of Limitations Upon Assignment Under Section 2.4.1 Upon Payment in Full of City Fees, All Amounts Referenced in Section 4.2 Hereof and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply following the later to occur of: a) payment in full of all fees under Section 3.11.1 hereof, b) payment of all amounts referenced in Section 4.2 hereof and c) the issuance of a Certificate of Occupancy for all buildings on the Property for which land use approvals have been given in connection with the public hearing process for the Project.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or canceled in whole or in part only by written consent of all parties in the manner provided for in Government Code Section 65868.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the stated term of this Agreement as set forth in Section 2.3.

(b) Completion of a referendum proceeding or entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.

(c) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by City or applicable public agency of all required dedications.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property prior to the Entitlements approved in connection with this Agreement. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination.

2.7 Notices.

(a) As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below, or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, postage and postal charges prepaid, and addressed to the recipient named below. All notices shall be addressed as follows:

If to City:

City of Loma Linda
Attn: City Clerk
25541 Barton Road
Loma Linda, CA 92354
Facsimile: (909) 799-2890

With copies to:

Stradling Yocca Carlson & Rauth
Attention: Mark J. Huebsch, Esq.
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
Facsimile: (949) 725-4100

and

Director of the Community Development Department
City of Loma Linda
25541 Barton Road
Loma Linda, CA 92354
Facsimile: (909) 799-2890

If to Owner:

The Spanos Corporation, Inc.
Attn: Jack Lucas
1341 West Robinhood Drive, Suite A-1
Stockton, CA 95207
Facsimile: (209) 478-3309
Telephone: (209) 478-7954

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Right to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The City shall issue all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan and consistent with the Entitlements. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation of dedication of land for public purposes shall be those set forth in the Development Plan.

3.2 Subsequent Development Approvals. This Agreement shall not prevent City, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations which do not conflict with the Development Plan, nor shall this Agreement prevent City from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulations not in conflict with the Development Plan.

3.3 Timing of Development. The parties acknowledge that Owner cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of Owner, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Because the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Cal. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that Owner shall have the right to develop the Property in such order and at such rate and at such time as Owner deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in the Development Plan.

3.4 [Intentionally Omitted.]

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project may require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or
- (b) Increase the density or intensity of use of the Property as a whole; or
- (c) Increase the maximum height and size of permitted buildings; or

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or

(e) Constitute a project requiring a subsequent or environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Fiber Optic Network Installation. If, and to the extent, Owner constructs and/or installs a fiber optic network (“**the Network**”) throughout all or a portion of the Project, Owner shall be subject to the following terms and conditions:

(a) The Network shall be installed exclusively in easements dedicated to the City and/or dedicated for public utility compatible uses and purposes. To the extent that Owner installs the Network, or any portion thereof, in locations which have not been dedicated to the City and/or dedicated for public utility compatible uses and purposes, it shall provide a dedicated easement to the City coterminous with the location of the Network.

(b) The property in which the Network, or any portion thereof, is located shall be deemed “public rights-of-way” within the meaning of Section 621 of the Cable Communications Policy Act of 1984, as amended.

(c) Owner shall join Underground Alert and provide proper notification pursuant thereto in the event of any excavation relating to the Network.

(d) Owner shall install, at its sole expense, a separate conduit of no less than three (3) inches in diameter in all locations where the Network is located which separate conduit shall be dedicated to the City for its exclusive use (the “**City Conduit**”). Owner shall, in addition, install and dedicate sufficient connection points, manholes, potholes, and other appurtenances as designated by the City in writing to allow the City to reasonably access and utilize the City Conduit.

(e) Owner shall install and dedicate to the City, at its sole cost, twelve (12) strands of unactivated dark fiber throughout the entirety of the Network for remote water meter reading purposes and other municipal purposes (the “**City Fiber**”). The City Fiber shall be connected to all residential units and business establishments located within the Project and shall be accessible to the City from a central location to be designated by the City in writing.

(f) In the event that the Owner, or any successor or assignee thereof, intends to provide or does provide any form of video services on the Network, it shall apply for and obtain, prior to the provision of such video services a cable television franchise from the City and shall be bound by the City’s cable television ordinance in effect at said time. Owner agrees not to provide, or allow to be provided, any form of video services on the Network prior to obtaining a cable television franchise from the City.

(g) In the event that Owner, or any successor or assignee thereof, intends to provide or does provide any services which are not video services on the Network, it shall comply with the City’s telecommunications ordinance in effect at said time. Owner, its successors and assigns, agrees to be bound by any current or future telecommunications ordinance and agrees not to provide, or allow to be provided, any form of non-video services

upon the Network without complying with the telecommunications ordinance, and the provisions thereof, including but not limited to, the payment of a franchise fee or license fee to the extent required by the telecommunications ordinance.

3.7 Reservations of Authority.

3.7.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Property.

(a) Processing fees and charges imposed by City to cover the estimated actual costs to City of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Regulations governing construction standards and specifications including, without limitation, the Uniform Building, Plumbing, Mechanical, Electrical, and Fire Codes as adopted and amended by the City of Loma Linda.

(d) Regulations which may be in conflict with the Development Plan but which are reasonably necessary to protect the public health and safety. To the extent possible, any such regulations shall be applied and construed so as to provide Owner with the rights and assurances provided under this Agreement.

(e) Regulations which are not in conflict with the Development Plan. Any regulation, whether adopted by initiative or otherwise, imposing a development moratorium or limiting the rate or timing of development of the Property shall be deemed to conflict with the Development Plan and shall therefore not be applicable to the Development of the Property.

3.7.2 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.8 Referenda and Moratorium. It is the express intent of City and Owner that as of the date of this Agreement, this Agreement is a legally binding contract which shall, to the extent permitted by law, prevail over the provisions of any subsequently enacted moratorium, statute, ordinance, limitation or other measure, whether or not enacted by City, or by voter initiative or referendum, and whether or not such initiative, moratorium, referendum, statute, ordinance, limitation or other measure relates, in whole or in part, to the rate, timing, sequencing or phasing of the development or construction of all or part of the Project or the Development Plan or affects Development Approvals which are issued by City.

In the event any initiative, moratorium, referendum, statute, ordinance, limitation or other measure is enacted subsequent to the Effective Date that would otherwise modify the development rights vested pursuant to this Agreement, Owner reserves the right to challenge any such enactment in a court of law should it become necessary to protect the development rights vested in Owner pursuant to the terms and conditions of this Agreement. Should any initiative or referendum be enacted which would preclude or make not feasible construction of all or any part of the Project, and should such enactment be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of this Agreement, Owner shall have no recourse against City for any damage Owner might sustain as a result thereof so long as the City did not participate in nor support any such initiative or referendum, except City shall provide for and timely implement an equitable program to reimburse Owner for unused fees and for an equitable reimbursement for Public Improvements or fees theretofore made but not required by the extent of development as of the date of the enactment.

3.9 Exactions. All further applications for Development Approvals contemplated by this Agreement, or made in connection with the development, construction, use or operation of the Project hereunder, shall be processed in accordance with the Existing Rules and the standards, terms and conditions of this Agreement, except that (a) City shall not impose thereunder any further Exactions other than those called for under the Existing Approvals and/or as permitted under the provisions of this Agreement, and (b) such applications and Development Approvals thereunder shall not result in the imposition upon Owner of any additional requirements, other than those already imposed pursuant to the Development Approvals, or otherwise permitted under the provisions of this Agreement.

3.10 Tentative Parcel Map Extension. Tentative parcel map(s), heretofore or hereafter approved in connection with development of the Property, shall be granted an extension of time lasting until up to the five (5) year term of this Agreement.

3.11 City Fees.

3.11.1 Payment of Fees. Owner shall pay all City administrative, permit processing and other city-wide imposed development fees in accordance with the master City Fees Schedule in effect at the time fees are paid.

4. PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in substantial public needs which will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance that private benefit conferred on Owner by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Development Agreement Fee. Owner agrees to pay to City in connection with the Project the corresponding amounts as set forth in **Exhibit "C"**, including escalation, as a Development Agreement Fee; Exhibit "C" is attached and made a part of this Agreement by this reference ("Development Agreement Fee Schedule"). The Development Agreement Fee shall be paid within two (2) business days after final building inspection or if certificate(s) of occupancy are

issued for any building containing one or more dwelling units, then concurrent with issuance of such certificate(s).

4.3 Street Names. All streets and public facilities located in the Development shall require approval by the City Department of Community Development.

5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The Director of the Community Development Department shall review this Agreement on or before the first anniversary of the Effective Date, in order to ascertain the good faith compliance by Owner with the terms of the Agreement. Owner shall submit a Monitoring Report, in a form acceptable to the Director of the Community Development Department, within thirty (30) days after written notice from the Director of the Community Development Department.

5.2 Procedure.

(a) During either a periodic review or a special review, Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on Owner.

(b) Upon completion of a periodic review, the Director of the Community Development Department shall submit a report to the City Council setting forth the evidence concerning good faith compliance by Owner with the terms of this Agreement and his or her recommended finding on that issue.

(c) If the City Council finds on the basis of substantial evidence that Owner has complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.

(d) If the City Council makes a preliminary finding that Owner has not complied in good faith with the terms and conditions of this Agreement, the City Council may modify or terminate this Agreement as provided in Section 5.3 and Section 5.4. Notice of default as provided under Section 6.3(b) of this Agreement shall be given to Owner prior to or concurrent with, proceedings under Section 5.3 and Section 5.4 or Section 6.4.

5.3 Proceedings Upon Modifications or Termination. If, upon a finding under Section 5.2, City determines to proceed with modification or termination of this Agreement, City shall give written notice to Owner of its intention so to do. The notice shall be given at least ten (10) calendar days prior to the scheduled hearing and shall contain:

(a) The time and place of the hearing; and

(b) A statement as to whether or not City proposes to terminate or to modify the Agreement; and

(c) Such other information as is reasonably necessary to inform Owner of the nature of the proceeding.

5.4 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, Owner shall be given an opportunity to be heard. Owner shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. If the City Council finds, based upon substantial evidence, that Owner has not complied in good faith with the terms or conditions of the Agreement, the City Council may terminate this Agreement or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the California Code of Civil Procedure.

5.5 Certificate of Agreement Compliance. If, at the conclusion of a Periodic Review, Owner is found to be in compliance with this Agreement, City shall, upon request by Owner, issue a Certificate of Agreement Compliance ("Certificate") to Owner stating that after the most recent Periodic Review and based upon the information known or made to the Director of the Community Development Department and the City Council that (1) this Agreement remains in effect and (2) Owner is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance. Owner may record the Certificate with the County Recorder.

6. DEFAULT AND REMEDIES.

6.1 Enforcement. Unless amended or canceled as herein provided, this Agreement is enforceable by any party to it notwithstanding a change in the applicable general or specific plan, zoning, subdivision, or building regulations adopted by the City which otherwise would alter or amend the rules, regulations, or policies governing permitted uses of the Property, density, design, improvement, and construction standards and specifications applicable to the Development Plan.

6.2 Events of Default. A party to this Agreement is in default under this Agreement upon the happening of one or more of the following events or conditions:

(a) If a warranty, representation or statement made or furnished by Owner to City or City to Owner is false or proves to have been false in any material respect when it was made;

(b) A finding and determination by City or Owner that upon the basis of substantial evidence the City or Owner has not complied in good faith with one or more of the terms or conditions of this Agreement.

6.3 Procedure Upon Default.

(a) Upon the occurrence of an event of default, the non-defaulting party may terminate or modify this Agreement in accordance with the procedures set forth in Subsection 6.3(b) below.

(b) The party claiming default shall provide written notice to the other party specifying the event of default and the steps the other party must take to cure the default. If, within thirty (30) days after the effective date of such notice, the other party does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the other party shall be deemed to be in default under the terms of this Agreement.

(c) All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing development agreements are available to the parties to pursue in the event there is a breach.

6.4 Owner's Default. In the event of any default by Owner, in addition to any other remedies which may be available to City, whether legal or equitable, City shall be entitled to retain any fees, grants, dedications or improvements to public property which it may have received prior to Owner's default without recourse from Owner or its successors or assigns.

6.5 Indemnity. Owner shall indemnify and hold City, its officers, agents and employees and independent contractors free and harmless from any claims or liability based or asserted upon any act or omission of Owner, its officers, agents, employees, subcontractors and independent contractors for property damage, bodily injury, or death (Owner's employees included) or any other element or damage of any kind or nature, relating to or in any way connected with or arising from the activities provided in this Agreement. Owner shall defend, at its expense, including payment of attorneys' fees, City, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. City may in its discretion participate in the defense of any such legal action.

6.6 Environmental Indemnity. Owner shall defend, indemnify and hold City, its officers, agents, employees, and independent contractors free and harmless from any claims or liability based upon or arising from the presence of any Hazardous Substance on any of the Property located in the Project. As used herein, "Hazardous Substance" shall mean any "hazardous substances," "toxic substance," "hazardous waste," or "hazardous material" as defined in one or more Environmental Laws, whether now in existence or hereinafter enacted; provided, however, that "Hazardous Substance" shall (i) include petroleum and petroleum products (other than naturally occurring crude oil and gas) and (ii) include radioactive substances which are not naturally occurring, and (iii) include any friable or non-friable asbestos or asbestos-containing material contained in or affixed to a structure existing on the Property or otherwise located in, on or about the Property as of the date of this Agreement. As used herein, "Environmental Laws" shall mean any and all federal, state, municipal and local laws, statutes, ordinances, rules, and regulations which are in effect as of the date of this Agreement, or any and all federal, or state laws, statutes, rules and regulations which may hereafter be enacted and which apply to the Property or any part thereof, pertaining to the use, generation, storage, disposal, release, treatment or removal of any Hazardous Substances, including without limitation, the Comprehensive Environmental Response Compensation Liability Act of 1980, 42 U.S.C. Sections 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, et seq., ("RCRA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and California Health and Safety Code Section 25100, et seq. Owner acquired the Property pursuant to real property purchase and sales agreements (the "Purchase Agreements") with (i) Loma Linda Properties and (ii) James H. and Janice Hutton and Elizabeth Phillips (collectively, the "Prior Owners") as sellers. To the extent that Owner is or may be entitled to defense or indemnification from one or more of the Prior Owners in connection with the presence of any such Hazardous Substances on the Property as provided in one or more of the Purchase Agreements, Owner shall assert any such defenses or indemnification rights on behalf of City, its officers, agents, employees, and independent contractors, or assign such rights to City, at City's option. However, Owner's obligation to defend, indemnify and hold harmless City and its officers, employees, agents or independent contractors from any claims or liability in connection with or arising from the presence of any Hazardous Substance on the Property or any portion thereof shall not be in any way limited or eliminated by the terms of the

Purchase Agreement, and Owner's obligation hereunder shall survive the termination of this Development Agreement, no matter how caused. Notwithstanding anything herein to the contrary, Owner shall have no obligation to indemnify the City as herein provided with respect to any Hazardous Substances which are proven by Owner to have been first brought onto the Property subsequent to the sale by the Owner of the Property, or the affected portions thereof.

7. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Owner with representatives of such lenders to negotiate in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City or any default by Owner in the performance of Owner's obligations under this Agreement.

(c) If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Owner under the terms of this Agreement, City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Owner. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have any obligation or duty under this Agreement to perform any of Owner's obligations or other affirmative covenants of Owner hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by Owner is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.4 of this Agreement.

8. MISCELLANEOUS PROVISIONS.

8.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code.

8.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings, or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

8.3 Severability. If any terms, provisions, covenants or conditions of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provisions of Development of the Property set forth in Section 3 and the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and City and Owner would not have entered into this Agreement but for such provisions and if determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

8.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed by interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

8.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

8.6 Singular and Plural. As used herein, the singular of any word includes the plural.

8.7 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

8.8 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

8.9 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

8.10 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the terms of this Agreement shall not be extended under any circumstances for more than two (2) years as a result of any such force majeure event.

8.11 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed by such benefited party.

8.12 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

8.13 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

8.14 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

8.15 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Owner is that of a government entity regulating the development of private property and the Owner of such property.

8.16 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

8.17 Authority to Execute. The person(s) executing this Agreement on behalf of Owner warrants and represents that he, she or they has/have the authority to execute this Agreement on behalf of his, her or their corporation, partnership or business entity and warrants and represents that he, she or they has/have the authority to bind Owner to the performance of its obligations hereunder.

8.18 Cooperation. City agrees that it shall accept for processing and promptly take action on all applications, provided they are in a proper form and acceptable for required processing, for discretionary permits, tract or parcel maps, or other land use entitlements for development of the Project in accordance with the provisions of this Agreement. City shall cooperate with Owner in providing expeditious review of any such applications, permits or land use entitlements and, upon request and payment of any costs and/or extra fees associated therewith by Owner, City shall assign such review to Project planner(s), building inspector(s), other staff personnel and/or contract planning or engineering consultants as required to insure the expeditious review, processing and completion of the Project.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

Dated: _____

THE CITY OF LOMA LINDA, a municipal
corporation of the State of California

By: _____
Mayor

“CITY”

ATTEST:

Pamela Byrnes O’Camb. City Clerk

APPROVED AS TO FORM:

Stradling Yocca Carlson & Rauth
By: Mark J. Huebsch, Esq.

THE SPANOS CORPORATION, INC., a California
corporation

By: Raymond E. Hansen
VICE PRESIDENT

By: _____

“OWNER”

*ALL SIGNATURES ARE TO BE ACKNOWLEDGED
BEFORE A NOTARY PUBLIC*

STATE OF CALIFORNIA

COUNTY OF Riverside

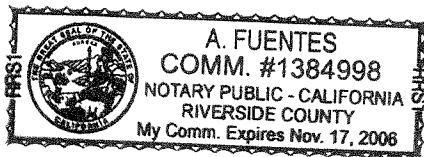
On 8/5/03, before me, A. Fuentes, Notary Public,
(Print Name of Notary Public)

personally appeared Raymond Edwin Hawes

☐ personally known to me

-or-

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Signature]
Signature Of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

DESCRIPTION OF ATTACHED DOCUMENT

Title Or Type Of Document

- ☐ Partner(s) ☐ Limited
 ☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

STATE OF CALIFORNIA

COUNTY OF _____

)
) ss.
)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

☐ personally known to me

-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

Title Or Type Of Document

- ☐ Partner(s) ☐ Limited
 ☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

EXHIBIT "A"

DESCRIPTION OF PROPERTY

[To Come]

LEGAL DESCRIPTION

Real property in the City of Redlands, County of San Bernardino, State of California, described as follows:

Parcel No. 1:

That portion of Block 1 of the Barton Ranch, in the City of Loma Linda, County of San Bernardino, State of California, as per plat recorded in Book 6 of Maps, page 19, records of said county, described as follows:

Beginning where the center line of California Street intersects the center line of Orange Avenue; thence in an easterly direction along the center line of Orange Avenue, 702 feet; thence turning an angle to the right of 89 deg. 30' and running in a southerly direction, 719 feet, more or less, to the center line of Mill Creek Zanja, as same existed on October 22, 1925; thence westerly along the center line of said Zanja to its intersection with the center line of California street; thence northerly along the center line of said street to the Place of Beginning.

Parcel No. 2:

That portion of Block 1 of the Barton Ranch, in the City of Loma Linda, County of San Bernardino, State of California, as per plat recorded in Book 6 of Maps, page 19, records of said county, lying south of the Mill Creek Zanja, described as follows:

Beginning at a point on the north line of Barton Avenue, north 88 deg. 15' west, 704.30 feet from the intersection with the center line of New Jersey Street; thence north 88 deg. 15' west, 848 feet along the said north line of Barton Avenue; thence north 748.35 feet to a point in the center line of the above mentioned Mill Creek Zanja; thence along the said center line of the Mill Creek Zanja, south 70 deg. 53' east, 155.9 feet; thence south 79 deg. 53' east, 180.26 feet; thence south 67 deg. 53' east, 20.45 feet; thence south 667.15 feet to the Point of Beginning.

Said land is also shown in Book 4, page 65, of Records of Survey, in the office of the County Recorder of said county.

Except therefrom all that portion of said Block 1 lying southerly of a line that is parallel with and distant 60.00 feet northerly of the following described line:

Commencing at the northwest corner of Section 32, Township 1 South, Range 3 West, San Bernardino Base and Meridian; thence south 00 deg. 54' 24" east along the west line of said Section 32, a distance of 46.85 feet to a point on a non-tangent curve, said curve being concave northerly with a radius of 2000.00 feet, a radial line through said point bears south 5 deg. 23' 32" west, said point also being the True Point of Beginning; thence easterly along said curve, a distance of 234.15 feet; thence north 88 deg. 41' 03 east, 1081.92 feet, more or less, to a point of terminus in the center line of New Jersey Street, 70.00 feet wide, as shown on the map of said Barton Ranch.

Parcel No. 3:

All that portion of Block 1 of the Barton Ranch, lying south of the Mill Creek Zanja, said block being bounded by Orange and Barton Avenues, and California and New Jersey Streets, as per plat recorded in book 6 of maps, page(s) 19, records of said county, in the City of Loma Linda,

County of San Bernardino, State of California, described as follows:

Beginning at the intersection of the north line of Barton Avenue and the center line of New Jersey Street; thence north 88 deg. 15' west, 704.30 feet along the said north line of Barton Avenue; thence north 667.15 feet to a point in the center line of the above mentioned mill creek zanja; thence along the said center line of the Mill Creek Zanja, south 67 deg. 53' east, 226.53 feet; thence south 84 deg. 53' east, 123.59 feet; thence south 70 deg. 33' east, 110.00 feet; thence south 88 deg. 04' east, 132.78 feet; thence south 84 deg. 02' east, 130.00 feet to the center line of New Jersey Street; thence south 0 deg. 02' east, 537.4 feet along the said center line of New Jersey Street to the point of beginning.

Also excepting therefrom that portion granted to the County of San Bernardino, a body corporate and politic of the State of California by grant deed recorded in book 9350, page 145, official records.

APN: 0292-162-04-0-00 and 0292-162-01-0-00

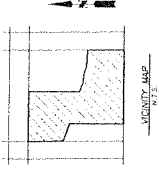
EXHIBIT "B"
LAND USE MAP

BARTON VINEYARD

TPM 16120

LOMA LINDA

BEING A SUBDIVISION OF PORTIONS OF SECTIONS 14, 23 AND 24 IN TOWNSHIP 1 NORTH, RANGE 6 WEST, 58M



EXISTING EASEMENT NOTES

1. A 10' EASEMENT FOR UTILITY PURPOSES IS SHOWN IN SECTION 14, 23 AND 24 IN TOWNSHIP 1 NORTH, RANGE 6 WEST, 58M.
2. A 10' EASEMENT FOR UTILITY PURPOSES IS SHOWN IN SECTION 14, 23 AND 24 IN TOWNSHIP 1 NORTH, RANGE 6 WEST, 58M.
3. A 10' EASEMENT FOR UTILITY PURPOSES IS SHOWN IN SECTION 14, 23 AND 24 IN TOWNSHIP 1 NORTH, RANGE 6 WEST, 58M.
4. A 10' EASEMENT FOR UTILITY PURPOSES IS SHOWN IN SECTION 14, 23 AND 24 IN TOWNSHIP 1 NORTH, RANGE 6 WEST, 58M.

STATISTICS

LAND
PROJECT AREA (NET) 841,172.40 SQ. FT. (21.2140 ACRES)

BUILDING	ONE BATH	TWO BATH	THREE BATH	FOUR BATH	TOTAL
UNIT A	1	1	1	1	4
UNIT B	1	1	1	1	4
UNIT C	1	1	1	1	4
UNIT D	1	1	1	1	4
UNIT E	1	1	1	1	4
UNIT F	1	1	1	1	4
UNIT G	1	1	1	1	4
UNIT H	1	1	1	1	4
UNIT I	1	1	1	1	4
UNIT J	1	1	1	1	4
UNIT K	1	1	1	1	4
UNIT L	1	1	1	1	4
UNIT M	1	1	1	1	4
UNIT N	1	1	1	1	4
UNIT O	1	1	1	1	4
UNIT P	1	1	1	1	4
UNIT Q	1	1	1	1	4
UNIT R	1	1	1	1	4
UNIT S	1	1	1	1	4
UNIT T	1	1	1	1	4
UNIT U	1	1	1	1	4
UNIT V	1	1	1	1	4
UNIT W	1	1	1	1	4
UNIT X	1	1	1	1	4
UNIT Y	1	1	1	1	4
UNIT Z	1	1	1	1	4
TOTAL	40	40	40	40	160

FOOTAGES

UNIT A 1,200 SQ. FT.

UNIT B 1,200 SQ. FT.

UNIT C 1,200 SQ. FT.

UNIT D 1,200 SQ. FT.

UNIT E 1,200 SQ. FT.

UNIT F 1,200 SQ. FT.

UNIT G 1,200 SQ. FT.

UNIT H 1,200 SQ. FT.

UNIT I 1,200 SQ. FT.

UNIT J 1,200 SQ. FT.

UNIT K 1,200 SQ. FT.

UNIT L 1,200 SQ. FT.

UNIT M 1,200 SQ. FT.

UNIT N 1,200 SQ. FT.

UNIT O 1,200 SQ. FT.

UNIT P 1,200 SQ. FT.

UNIT Q 1,200 SQ. FT.

UNIT R 1,200 SQ. FT.

UNIT S 1,200 SQ. FT.

UNIT T 1,200 SQ. FT.

UNIT U 1,200 SQ. FT.

UNIT V 1,200 SQ. FT.

UNIT W 1,200 SQ. FT.

UNIT X 1,200 SQ. FT.

UNIT Y 1,200 SQ. FT.

UNIT Z 1,200 SQ. FT.

TOTAL 192,000 SQ. FT.

1,200 SQU. FT. PER UNIT REQUIRE = 848

COVERED = 1,200

UNCOVERED = 1,200

WHITE FINISHING = 1,200

PAVING = 1,200

LANDSCAPING = 1,200

CONCRETE = 1,200

STEEL = 1,200

GLASS = 1,200

BRICK = 1,200

STONE = 1,200

WOOD = 1,200

PLASTER = 1,200

PAINT = 1,200

CEILING = 1,200

FLOORING = 1,200

MECHANICAL = 1,200

ELECTRICAL = 1,200

TELEPHONE = 1,200

CABLE = 1,200

WATER = 1,200

SEWER = 1,200

GAS = 1,200

HEATING = 1,200

Cooling = 1,200

Lighting = 1,200

Sound = 1,200

Security = 1,200

Fire = 1,200

Police = 1,200

Fire Department = 1,200

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EXHIBIT "C"

DEVELOPMENT AGREEMENT FEE SCHEDULE

The sum of \$990,416 plus \$3,346 for any dwelling unit in excess of 296 dwelling units.

All amounts set forth shall increase three percent (3%) as of the first anniversary of the Effective Date and each anniversary thereafter.